

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS.

Subchapter F. Customer Service and Protection

§24.173. Late Fees and Disconnections During an Extreme Weather Emergency for Nonpayment.

- (a) **Applicability.** This section applies to a retail public utility that is required to possess a certificate of convenience and necessity to provide retail water or sewer utility service under §24.225 of this title, (relating to Certificate of Convenience and Necessity (CCN) Required) an affiliate of such a retail public utility, and a district or affected county that provides retail water or sewer utility service.
- (b) **Definitions.** The following words and terms, when used in this section, have the following meanings, unless the context indicates otherwise:
- (1) **Affected customer** -- a customer of an entity to which this section applies that receives retail water or sewer service from that entity in an area experiencing an extreme weather emergency and has a bill due during the extreme weather emergency.
 - (2) **Extreme weather emergency** -- a period beginning when the previous day's highest temperature in an area did not exceed 28 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to the nearest National Weather Service reports for that area. For purposes of this section, an extreme weather emergency is over on the second business day the temperature exceeds 28 degrees Fahrenheit.
 - (3) **Payment schedule** -- an agreement between an entity to which this section applies and an affected customer that allows the customer to pay, in one or more installments, an unpaid bill due during an extreme weather emergency after its due date.
- (c) **Prohibited actions.** An entity to which this section applies is prohibited from imposing a late fee on, or disconnecting the retail water or sewer service of, an affected customer for nonpayment of a bill that is due during an extreme weather emergency until after the extreme weather emergency is over.
- (d) **One-time notice.** On or before January 31, 2023, an entity to which this section applies must provide to each water or sewer customer a one-time written notice of the requirements of this section.
- (1) The written notice must be in plain English and Spanish and inform the customer that its retail water or sewer service provider is:
 - (A) prohibited from imposing late fees or disconnecting retail water or sewer service for nonpayment of bills that are due during an extreme weather emergency until after the emergency is over;
 - (B) required to offer a payment schedule to a requesting affected customer for unpaid bills due during an extreme weather emergency; and
 - (C) prohibited from disconnecting the retail water or sewer service for nonpayment of bills due during an extreme weather emergency of an affected customer that has requested a payment schedule until after the payment schedule has been offered and the affected customer has either declined to accept the payment schedule in a timely fashion or violated the terms of the payment schedule.
 - (2) The written notice may be provided as a billing insert or a separate communication, and must be delivered by first class mail, hand delivered, or provided electronically to affected customers that have agreed to receive communications electronically.
 - (3) Commission staff may develop standard notice language in English and Spanish and post the standard notice language on the commission's website. An entity may use this standard notice language as part of its written notice to comply with paragraph (1) of this subsection.
- (e) **Payment schedule.** An affected customer may request to establish a payment schedule for unpaid bills that are due during an extreme weather emergency. An entity to which this section applies that receives such a request within 30 days from the date the extreme weather emergency ends must offer the requesting affected customer a payment schedule and a deadline for accepting the payment schedule. A payment schedule may

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be established in person, by telephone, or online, but all payment schedules must be reduced to writing and provided to the customer.

- (1) A payment schedule offered under this subsection may:
 - (A) include a finance charge, conspicuously stated on the payment schedule, for late fees on the payment schedule not to exceed an annual rate of 10 percent simple interest; and
 - (B) require payment in one or more installments.
 - (2) A payment schedule offered under this subsection must:
 - (A) be written in plain language in English and, if requested, Spanish;
 - (B) identify the total amount due, and, if payment is to be made in multiple installments, the number of installments and the amount of each installment;
 - (C) the deadline for payment, or if payment is to be made in multiple installments, the deadline for each installment;
 - (D) identify the dates the extreme weather event occurred, and the due dates and amounts owed of any bills that were due during the extreme weather event; and
 - (E) include a statement, in a clear and conspicuous type, that states “If you are not satisfied with this agreement, or if the agreement was made by telephone and you feel this does not reflect your understanding of that agreement, contact (insert name and contact information of service provider).”
 - (3) An entity to which this section applies is prohibited from disconnecting the retail water or sewer service for nonpayment of bills due during an extreme weather emergency of an affected customer that has requested a payment schedule until after the payment schedule has been offered and the customer has either declined to accept the payment schedule in a timely fashion or violated the terms of the payment schedule. Any preexisting disconnection notices issued to an affected customer for nonpayment of a bill due during an extreme weather emergency are suspended upon the timely request for a payment schedule under this subsection. If the affected customer does not timely accept the offered payment schedule or violates the terms of the payment schedule, any suspended disconnection notices are reinstated, and the entity may renegotiate the terms of the payment schedule or disconnect service on or after the disconnection date listed on the disconnection notice. If the affected customer does not timely accept the offered payment schedule or violates the terms of the payment schedule and there is not a preexisting disconnection notice, the entity must issue a disconnection notice under §24.167 of this title (related to Discontinuance of Service) prior to disconnecting the water or sewer service of the affected customer.
- (f) **Enforcement.** An entity that violates this section may be subject to civil penalties under §24.364 of this title (relating to Civil Penalties for Late Fees and Disconnections During an Extreme Weather Emergency for Nonpayment) and any other enforcement actions permitted by law.